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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,554	10/09/2003	Yung Chang Liang	TRNDP013	7907

22434 7590 04/06/2007

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EXAMINER	
KLIMACH, PAULA W	
ART UNIT	**PAPER NUMBER**
2135	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/683,554	LIANG, YUNG CHANG	
	Examiner	Art Unit	
	Paula W. Klimach	2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 April 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 09/03 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Paula W. Klimach
AU2135

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/11 & 03/01*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: creating an anti-computer virus agent. The preamble recites that the method is for creating an anti-computer virus agent, however there is no step that includes the actual creation of the anti-computer virus agent.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The method recited in the claims is for software, which is not claimed as embodied in computer-readable media and is therefore descriptive material and are not statutory because they are not capable of causing functional change in a computer. Furthermore as the method does not entail the transformation of an article the final result achieved by the claimed invention should be useful, tangible, and concrete.

Claim Objections

Claims 1 and 4 are objected to because of the following informalities: misspelling inoculation, as innoculation. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al (6,901,519 B1) in view of Arnold et al (5,440,723).

In reference to claims 1 and 4, Stewart teaches a network is protected from e-mail viruses through the use of a sacrificial server (abstract). The method of Stewart includes parsing a selected computer virus into a detection module (column 3 lines 45-67) that identifies a selected one of the client devices as a target client device (column 4 lines 5-35), an infection module that causes the virus to infect those target client devices not infected by the selected virus (column 4 lines 16-28), and a viral code payload module that infects the targeted client device modifying the infection module to infect those computers already infected by the selected virus (column 5 lines 57-67).

However Stewart does not disclose incorporating inoculation viral code in the payload module that acts to prevent further infection by the selected virus.

Arnold discloses a feature of this invention is the automatic execution of the foregoing steps in response to a detection of an undesired software entity, such as a virus or a worm, within

a data processing system (abstract). The system of Arnold discloses incorporating inoculation viral code in the payload module that acts to prevent further infection by the selected virus, since the system adds the signature of the newly created signature to the database (column 4 lines 29-56).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the system as the system of Arnold in the system of Stewart. One of ordinary skill in the art would have been motivated to do this because of the increasing rate at which new viruses are being written is widening the gap between the number of viruses that exist and the number that can be detected therefore an efficient method is required for informing other computers on the network as to the existence of a computer virus within the network (Arnold column 2 lines 1-33).

In reference to claims 3 and 6 Stewart discloses a method that includes modified viral payload module as part of the anti-viral agent (Fig. 2 part 205).

However Stewart does not disclose forming an anti-viral agent by combining the detection module, the modified infection module and the modified viral payload module.

Arnold discloses an anti-viral agent that includes the modified infection module and the modified viral payload module (column 4 lines 29-56).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the system as the system of Arnold in the system of Stewart. One of ordinary skill in the art would have been motivated to do this because of the increasing rate at which new viruses are being written is widening the gap between the number of viruses that exist and the number that can be detected therefore an efficient method is required for informing other

computers on the network as to the existence of a computer virus within the network (Arnold column 2 lines 1-33).

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart and Arnold as applied to claim 1 above, and further in view of Lerche et al (5,511,163).

Steward and Arnold do not teach incorporating repair viral code in the payload module that acts to repair any damage in the infected client device caused by the selected virus.

Lerche discloses a data processing system comprising a plurality of computers interconnected through a local network wherein when a virus signature is detected in the file information is simultaneously provided on the transmitting stations, whereafter it is possible to transmit the vaccine to the stations in question. Therefore Lerche discloses incorporating repair viral code in the payload module that acts to repair any damage in the infected client device caused by the selected virus (column 3 lines 25-42).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to make the changes to repair damage as in Lerche in the system of Stewart. One of ordinary skill in the art would have been motivated to do this because the virus could have infected a large number of workstations before being detected and therefore the system would make it simpler to repair problems (Lerche column 1 lines 19-30).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula W. Klimach whose telephone number is (571) 272-3854. The examiner can normally be reached on Mon to Thr 9:30 a.m to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thanhnga B. Do
AU2135

PWK
Sunday, April 01, 2007